

Filed for intro on 02/02/95
House Bill _____
By _____

Senate No. SB0590
By Henry

AN ACT to regulate smoking of tobacco and establish the
"Children's Act for Clean Indoor Air".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The title of this act is, and may be cited as, the "Children's Act for Clean
Indoor Air".

SECTION 2.

a) The general assembly finds that :

(1) according to the 1994 Tennessee Department of Health survey,
eighty-nine percent (89%) of Tennesseans favor restricting smoking in public
places, and eighty-one percent (81%) of Tennesseans recognize that exposure
to environmental tobacco smoke is harmful to those exposed to it;

(2) because nicotine can cross the placental blood barrier secondhand
smoke inhaled by a pregnant woman results in nicotine and other chemicals in
the bloodstream of the developing fetus;

(3) tens of thousands of Tennessee's children with asthma, other respiratory illnesses and allergies are effectively denied access to many public places by the presence of environmental tobacco smoke;

(4) it is in the best interest of the people of the state to protect the health of its children and to restrict involuntary exposure to environmental tobacco smoke in indoor areas which children frequent; and

5) that the 1986 U.S. Surgeon General's report establishes that simple separation of smoking areas reduces but does not eliminate, the recognized health hazards of environmental tobacco smoke;

(b) Therefore, it is the intention of the general assembly that this act preserves and improves the health and environment of the children of this state by reducing their exposure to indoor environmental tobacco smoke in public places.

SECTION 3. As used in this act, unless the context otherwise requires:

(1) "Children's day-care center" means any facility in which custodial care is provided for children in return for compensation when the children cared for are present.

(2) "Group homes for children" means the home operated by any person, society, agency, corporation, or institution or any group which receives seven (7) or more children under seventeen (17) years of age for full-time care outside their own homes in facilities owned or rented and operated by the organization;

(3) "Indoor area open to the children or the public" means any indoor area or portion thereof generally accessible to children or the public.

(4) "School grounds" means any building, structure, and surrounding outdoor grounds contained within a public or private pre-school, nursery school, elementary or secondary school's legally defined property boundaries as registered in a county clerk's office, and any vehicles used to transport children or school personnel.

(5) "Smoking" means the burning of a lighted cigarette, cigar, pipe or any other matter substance containing tobacco.

(6) "Youth centers and facilities for detention" shall mean youth development centers for detention, treatment, rehabilitation and education of children found to be delinquent.

(7) "Zoo" means any indoor area open to the public for the purpose of viewing animals.

SECTION 4.

(a) Smoking shall not be permitted and no person shall smoke in the following indoor areas open to children and the public:

(1) youth centers and facilities for detention;

(2) child day care centers or any facility that provides child care services, provided, however, the prohibition of this section does not apply to such services provided in a private home;

(3) group homes for children;

(4) public institutions for children;

(5) residential treatment facilities for children and youth;

(6) all public and private schools, including elementary and secondary schools;

(7) health care facilities; and

(8) zoos.

(b) Notwithstanding the provisions of any other law, rule or regulation, tobacco use shall not be permitted and no person shall use tobacco on school grounds; provided, however, smoking by adult faculty and staff members may be permitted in a designated smoking area during non-school hours. For purposes of this section, school

hours shall include any student activity that is supervised by faculty or staff, or any officially sanctioned school event.

(c) The owner, operator or manager of an indoor area open to the public subject to subsection (a) of this act may designate a smoking area or areas.

SECTION 5. "No Smoking" signs, or the international "No Smoking" symbol, which consists of a pictorial representation of a burning cigarette enclosed in a circle with a bar across it, shall be prominently posted and properly maintained on building entrances where smoking is regulated by this article by the owner, operator, manager or other person having control of such indoor area.

SECTION 6.

(a) Any child or parent aggrieved by the failure of an individual, employer or public accommodation to comply with requirements of this act shall have the right to file a civil action in the circuit or chancery courts of Tennessee. Upon a finding of a violation of the act, and a failure to comply upon request, the prevailing plaintiff shall be entitled to injunctive relief, attorneys' fees, and an award of damages of fifty dollars (\$50).

(b) Smoking in an area designated as a "no smoking" area by this act is a Class C misdemeanor, punishable only by a fine not to exceed fifty dollars (\$50), provided that;

(1) the individual was requested to refrain from smoking and refused to do so, or

(2) had actual notice that he or she was smoking in a "no smoking" area.

(c) Any law enforcement officer may issue a citation regarding a violation of this act.

SECTION 7. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 8. This act shall take effect July 1, 1995, the public welfare requiring it.